

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

IN RE:

Richard Church

Case No.: 8:15-bk-00295-MGW
Chapter 7

DEBTOR.

**MOTION TO SELL REAL PROPERTY SUBJECT TO ALL ENCUMBRANCES
LIENS AND INTERESTS AND SOLICITATION OF GREATER OFFERS**

(1724 Franklin Drive, Englewood, FL 34223)

Notice and Opportunity to Object and Request for Hearing

Pursuant to Local Rule 2002-4, the Court will consider this motion, objection, or other matter without further notice or hearing unless a party in interest files an objection within 21 days from the date set forth on the proof of service attached to this paper plus an additional three days for service. If you object to the relief requested in this paper, you must file your objection with the Clerk of the Court at 801 N. Florida Ave., Suite 555, Tampa, FL 33602-3899, and serve a copy on the movant's Trustee, Richard M. Dauval, at P.O. Box 13607, St. Petersburg, FL 33733, and any other appropriate persons within the time allowed.

If you file and serve a response within the time permitted, the Court may schedule and notify you of a hearing, or the Court may consider the response and may grant or deny the relief requested without a hearing. If you do not file a response within the time permitted, the Court will consider that you do not oppose the relief requested in the paper, will proceed to consider the paper without further notice or hearing, and may grant the relief requested.

COMES NOW Richard M. Dauval, Chapter 7 Trustee, by and through his undersigned counsel, and hereby moves for authority to sell certain improved real property subject to all liens, encumbrances and interests, and in support thereof states as follows:

JURISDICTION

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b) (2) (A), (M), (N) and (O).
2. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The basis for the relief requested herein are, *inter alia*, 11 U.S.C. §§ 105, 363(b) and Federal Rules of Bankruptcy Procedure 2002 and 6004.

PROPOSED SALE TERMS

4. Richard M. Dauval, the Trustee duly appointed and acting for the above-captioned estate reports that the Trustee intends to sell 21 days from the date this paper is entered on the docket, the following property of the estate of the Debtor(s) under the following terms and conditions:

Description of Property: 1724 Franklin Drive, Englewood, FL 34223. More particularly described as:

A PARCEL OF LAND LYING IN SECTION 10, TOWNSHIP 40 SOUTH, RANGE 19 EAST, SARASOTA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF FRANKLIN DRIVE (A FIFTY FOOT WIDE PUBLIC RIGHT OF WAY) AS SHOWN ON THE PLAT OF MANASOTA MANOR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 6, PAGE(S) 14, OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA; THENCE S 89° 53' 40" EAST, ALONG THE SAID SOUTH LINE OF THE NW ¼ OF THE NW ¼ OF SECTION 10, TOWNSHIP 40 SOUTH, RANGE 19 EAST, SARASOTA COUNTY, FLORIDA, A DISTANCE OF 175.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE SOUTH LINE OF SAID NORHTWEST ¼ OF THE NORTHWEST ¼ OF SECTION 10, S 89° 53' 40" E., A DISTANCE OF 155.00 FEET; THENCE N 00° 31' 05"E., LEAVING SAID SOUTH LINE OF THE NORTHWEST ¼ OF THE NORTHWEST ¼ OF SECTION 10, A DISTANCE OF 330.01 FEET; THENCE N 89° 53' 40" W., PARALLEL WITH SAID SOUTH LINE OF THE NORTHWEST ¼ OF THE

NORTHWEST ¼ OF SECTION 10, A DISTANCE OF 155.00 FEET; THENCE S 00° 31' 05" W., A DISTANCE OF 330.01 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH A 40.00 FOOT WIDE INGRESS/EGRESS, UTILITY AND DRAINAGE EASEMENT ACROSS THE SOUTH 40.00 FEET, AS MEASURED PERPENDICULAR TO THE SOUTH LINE OF LANDS OF THE FOLLOWING DESCRIBED LAND BEGIN AT THE SOUTHEAST CORNER OF FRANKLIN DRIVE (A FIFTY FOOT WIDE PUBLIC RIGHT-OF-WAY) AS SHOWN ON THE PLAT OF MANASOTA MANOR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 6, PAGE 14, OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA: THENCE N. 00°31'05" E., ALONG THE EAST LINE OF SAID PLAT OF MANASOTA MANOR, A DISTANCE OF 330.01 FEET; THENCE S. 89°53'40" E., PARALLEL WITH THE SOUTH LINE OF THE NORTHWEST ¼ OF THE NORTHWEST ¼ OF SECTION 10, TOWNSHIP 40 SOUTH, RANGE 19 EAST, SARASOTA COUNTY, FLORIDA, A DISTANCE OF 175.01 FEET; THENCE S. 00°31'05" W. PARALLEL WITH SAID EAST LINE OF MANASOTA MANOR, A DISTANCE OF 330.01FEET TO SAID SOUTH LINE OF THE NORTHWEST 1.4 OF THE NORTHWEST ¼ OF SECTION 10; THENCE N. 89°53'40" W., ALONG THE SAID SOUTH LINE OF THE NORTHWEST 1.4 OF THE NORTHWEST ¼ OF SECTON 10, A DISTANCE OF 175.01 FEET TO THE POINT OF BEGINNING. TOGETHER WITH ANY INTERST IN THE FOLLOWING DESCRIBED PROPERTY:

FRANKLIN DRIVE, 50 FEET SOUTH OF LOT 18, OF MANASOTA MANOR, ACCORIDNG TO THE PAT THEREOF, AS RECORDED IN PLAT BOOK 6, PAGE(S) 14, OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA.

- a. Manner of Sale: Private
- b. Terms of Sale: Certified Funds Only
- a. Purchaser: Southwest Investments of Florida, LLC. A Florida company.
- b. Sale Price: \$3,000.00, subject to the auction procedures described in Paragraph 5 below.
- c. Applicable Taxes and Government Charges: Upon expiration of the negative notice period outlined above, the Trustee shall escrow from Purchaser an amount equal to the agreed upon sales price and the total amount of applicable taxes calculated and due under Fla. Stat. § 201.02, in certified funds. The Trustee shall do a lien search for

the limited purpose of calculating the applicable taxes under Fla. Stat. §201.02. The Trustee, upon collection of the sale proceeds and applicable taxes, shall then:

- a. Execute a Trustee's Deed and properly record an original copy of the executed Deed with the Clerk of the Court for the County where the Property is located.
- b. Incident to recording the Trustee's Deed, the Trustee shall pay all applicable taxes (i.e., documentary stamp taxes) in full.
- c. Upon return receipt of the Trustee's Deed from the Clerk of Court, the original shall be delivered by the Trustee, or his Attorney, to Purchaser via U.S. Mail and a copy of the same shall be filed with the Clerk of the Court for the Middle District of Florida, Bankruptcy Court.
- d. Ownership Interest to be Transferred: All right, title, and interest of bankruptcy estate, if any.
- e. Subject to all liens and encumbrances, if any. No warranties of no liens. No warranties of any kind. Liens included on the Debtor's Schedule D include:

<u>Lienholder</u>	<u>Amount</u>	<u>Nature of Secured Interest</u>
Selene Finance PO Box 422039 Houston, TX 77242	\$390,196.00 *	First Mortgage*
Suntrust Bank Attn: Bankruptcy Dept. P.O. Box 85092 MC Va-Wmrk-7952 Richmond, VA 23286	\$248,080.00 *	Second Mortgage*

* As per the Debtor(s) bankruptcy schedules

SOLICITATION OF GREATER OFFERS

5. The Trustee will entertain any higher bids for the purchase of the Property that the Trustee proposes to sell. Such bids must be in writing and must be received by the Trustee electronically at rdauval@leavenlaw.com, or by US Mail at the address listed below, no later than the close of business 21 days from the date of mailing, as indicated in the Certificate of Service. If more than one bid has been received, an auction will occur among said bidder(s) after 21 days to determine the ultimate purchaser.
6. Upon determination of the ultimate purchaser, and pursuant to B.R.C.P. Rule 6004(c), the Trustee shall serve and file a report of sale itemizing the property sold, the name of the ultimate purchaser, and the price received for the property.
7. To the extent applicable, the Trustee requests declaration that the ultimate purchaser be authorized to communicate with any and all secured lien holders regarding the future disposition of the Property, and to that end any unsatisfied liens or encumbrances of record.
8. The Trustee requests that the 14 day appeal period provided for under B.R.C.P. Rule 6004(h) be waived so that the sale of the Property may close immediately upon the entry of an order granting the instant motion.

WHEREFORE, the Trustee moves for the entry of an Order substantially in the form attached hereto:

- A. Authorizing the sale of the Property to the ultimate purchaser subject to all liens, encumbrances, or interests of any party; and,
- B. Authorizing the Trustee to take any all actions and to execute any and all documents necessary and appropriate to effectuate and consummate the terms of said sale, including, executing a deed conveying the interests of the Debtor(s) the Property to the Purchaser;

C. Granting the Trustee such other and further relief as is just and proper.

Respectfully submitted,

/s/ Richard M. Dauval, Esquire

Richard M. Dauval

Leavengood, Dauval, Boyle & Meyer, P.A.

3900 1st Street North, Suite 100

Saint Petersburg, FL 33703

727-327-3328 x303

CERTIFICATE OF SERVICE

I certify that on March 27, 2015, a true and correct copy of the foregoing was provided by U.S. mail and/or electronic delivery to: **U.S. Trustee, USTPRegion21.TP.ecu@usdoj.gov** **Laurie L. Blanton, Esq., courtnotices@bankruptcyfitzhugh.com**; **Richard Church, 2357 S Tamiami Trail, #119, Venice, FL 34293; Selene Finance, c/o Lender Legal Services, LLC, Attn: Alexandra Kalman, Esq., 21 E. Pine Street, Suite 730, Orlando, FL 32801; SENT CERTIFIED RETURN RECEIPT REQUESTED to: Suntrust Bank, Attn: President, 303 Peachtree Street NE, Atlanta, GA 30308 (7012-3050-0002-0375-3857)**

Respectfully submitted,

/s/ Richard M. Dauval, Esquire

Richard M. Dauval

Leavengood, Dauval, Boyle & Meyer, P.A.

3900 1st Street North, Suite 100

Saint Petersburg, FL 33703

727-327-3328 x303

LeavenLaw
Richard Dauval
3900 First Street North Suite 100
St. Petersubrg, FL 33703

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA

IN RE: Richard Church

CASE NO: 8:15-bk-00295-MGW

**DECLARATION OF MAILING
CERTIFICATE OF SERVICE**

Chapter:
ECF Docket Reference No.
Judge:
Hearing Location:
Hearing Date:
Hearing Time:
Response Date:

On 3/27/2015, I did cause a copy of the following documents, described below,

Motion To Sell Real Property Subject To All Encumbrances Liens And Interest And Solicitation of Greater Offers,

to be served for delivery by the United States Postal Service, via First Class United States Mail, postage prepaid, with sufficient postage thereon to the parties listed on the mailing matrix exhibit, a copy of which is attached hereto and incorporated as if fully set forth herein.

I caused these documents to be served by utilizing the services of BK Attorney Services, LLC d/b/a certificateofservice.com, an Approved Bankruptcy Notice Provider authorized by the United States Courts Administrative Office, pursuant to Fed.R.Bankr.P. 9001(9) and 2002(g)(4). A copy of the declaration of service is attached hereto and incorporated as if fully set forth herein.

DATED: 3/27/2015

/s/ Richard Dauval
Richard Dauval 664081
LeavenLaw
3900 First Street North Suite 100
St. Petersubrg, FL 33703
727 327 3328
rdauval@leavenlaw.com

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA

IN RE: Richard Church

CASE NO: 8:15-bk-00295-MGW

**CERTIFICATE OF SERVICE
DECLARATION OF MAILING**

Chapter:
ECF Docket Reference No.

Judge:
Hearing Location:
Hearing Date:
Hearing Time:
Response Date:

On 3/27/2015, a copy of the following documents, described below,

Motion To Sell Real Property Subject To All Encumbrances Liens And Interest And Solicitation of Greater Offers,

were deposited for delivery by the United States Postal Service, via First Class United States Mail, postage prepaid, with sufficient postage thereon to the parties listed on the mailing matrix exhibit, a copy of which is attached hereto and incorporated as if fully set forth herein.

The undersigned does hereby declare under penalty of perjury of the laws of the United States that I have served the above referenced document(s) on the mailing list attached hereto in the manner shown and prepared the Declaration of Certificate of Service and that it is true and correct to the best of my knowledge, information, and belief.

DATED: 3/27/2015



Jay S. Jump
BK Attorney Services, LLC
d/b/a certificateofservice.com, for
LeavenLaw
Richard Dauval
3900 First Street North Suite 100
St. Petersubrg, FL 33703

CASE INFO

LABEL MATRIX FOR LOCAL NOTICING
113A-8
CASE 8-15-BK-00295-MGW
MIDDLE DISTRICT OF FLORIDA
TAMPA
THU MAR 26 17-27-37 EDT 2015

CHRISTIANA TRUST A DIVISION OF
WILMINGTON S
SELENE FINANCE LP
P.O. BOX 71243
PHILADELPHIA PA 19176-6243

DEBTOR

RICHARD CHURCH
2357 S TAMiami TRL #119
VENICE FL 34293-5022

RECOVERY MANAGEMENT SYSTEMS CORP.
ATTN- RAMESH SINGH
25 SE SECOND AVENUE STE 1120
MIAMI FL 33131-1605

EXCLUDE

~~MICHAEL G. WILLIAMSON~~
~~TAMPA~~

BK OF AMER
4060 OGLETONSTANTON RD
NEWARK DE 19713

CHASE
PO BOX 15298
WILMINGTON DE 19850-5298

RECOVERY MANAGEMENT SYSTEMS
CORPORATION
25 S.E. 2ND AVENUE SUITE 1120
MIAMI FL 33131-1605

SELENE FINANCE
PO BOX 422039
HOUSTON TX 77242-4239

SUNTRUST BANK
ATTN-BANKRUPTCY DEPT
PO BOX 85092
MC VA-WMRK-7952
RICHMOND VA 23285-5092

SUNTRUST BANK
CO ERIC REED
SHUTS & BOWEN LLP
300 S ORANGE AVE #1000
ORLANDO FL 32801-5403

SUNTRUST BANK
CO GILL LAW FIRM PA
1625 CONGRESS AVE
SUITE 300
DELRAY BEACH FL 33445-6304

SUNTRUST BK
ATTN- BANKRUPTCY DEPT
PO BOX 85092 MC VA-WMRK-7952
RICHMOND VA 23285-5092

WELLS FARGO BANK
4205 TAMiami TRAIL S
VENICE FL 34293-5102

CM/ECF E-SERVICE
UNITED STATES TRUSTEE - TPA713 +
TIMBERLAKE ANNEX SUITE 1200
501 E POLK STREET
TAMPA FL 33602-3949

CM/ECF E-SERVICE

RICHARD M DAUVAL ATTORNEY FOR TRUSTEE
+
LEAVENGOOD NASH DAUVAL & BOYLE PA
3900 FIRST STREET NORTH SUITE 100
ST. PETERSBURG FL 33703-6109

CM/ECF E-SERVICE

Laurie L Blanton +
FITZHUGH & BLANTON P.A.
1041 US 41 BYPASS S
VENICE FL 34285-4343

CM/ECF E-SERVICE

RICHARD M DAUVAL +
P.O. BOX 13607
ST. PETERSBURG FL 33733-3607

CM/ECF E-SERVICE

ALEXANDRA R KALMAN +
LENDER LEGAL SERVICES LLC
201 EAST PINE STREET
SUITE 730
ORLANDO FL 32801-2763

CM/ECF E-SERVICE

NOTE- ENTRIES WITH A □+□ AT THE END
OF THE
NAME HAVE AN EMAIL ADDRESS ON FILE IN
CMECF